

## PLANNED DEVELOPMENT PERMIT AMENDMENT

<b>FILE NO.</b>	<b>PDA18-045-01</b>
<b>LOCATION OF PROPERTY</b>	Northwest corner of Olsen Drive and South Winchester Boulevard (3135 Olsen Drive)
<b>ZONING DISTRICT</b>	CP(PD) Panned Development Zoning District (File No. PDC14-068)
<b>GENERAL PLAN DESIGNATION</b>	Urban Village Commercial
<b>PROPOSED USE</b>	Planned Development Permit Amendment to allow the construction of an approximately 376,250-square foot office building on an approximately 4.77-gross acre site.
<b>ENVIRONMENTAL STATUS</b>	Determination of Consistency with the Final Environmental Impact Report for the Santana West Rezoning and the I-280 Winchester/Moorpark Transportation Development Policy Project.
<b>APPLICANT ADDRESS</b>	SR Winchester, LLC 356 Santana Row, Suite 1005 San Jose, CA 95128
<b>OWNER ADDRESS</b>	SR Winchester, LLC 356 Santana Row, Suite 1005 San Jose, CA 95128

### FACTS AND FINDINGS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts and findings regarding this proposed project:

- 1. Project Description.** The project consists of a Planned Development Permit Amendment to finalize the design of the Phase 2 portion of the project (Two Santana West) and to amend the previously approved Master Planned Development Permit (File No. PD18-045). The Master Planned Development Permit allowed the demolition of a total of 62,435 square feet of commercial buildings (Century 22, Century 23, and Flames Restaurant), the construction of three buildings (up to 850,000 of rentable square feet which is approximately 934,750 square feet of gross floor area) for commercial office, an above grade parking garage, and the removal of 79 ordinance-size trees on an approximately 13.0-gross acre site. The Phase 1 (One Santana West) portion of the project, including the demolition of buildings on-site, the removal of the 79 ordinance-size trees, the construction of the first 376,250 square feet

commercial office building, and the construction of the above grade garage is currently ongoing.

This Planned Development Permit Amendment includes modifications to the central plaza located between Phase 1 and Phase 2 buildings, including modifications to the location of the EVA, the Fire Access Plan, and the landscape plan. Minor modifications to Phase 2 also include an updated stormwater plan, an updated utility plan, updated landscape design, updated parking quantities, and updated building plans and elevations for Phase 2.

2. **Site Description and Surrounding Uses.** The subject site is located on the northwest corner of Olsen Drive and South Winchester Boulevard. The site is adjacent to single-family residences along the north and western property lines. Small commercial establishments are also situated to the north of the property. A mixed-use development (Santana Row) is situated to the east of the site, across Winchester Boulevard. The Winchester Mystery House and Winchester Ranch Mobile Home Park are located to the south of the property across Olsen Drive.
3. **General Plan Conformance.** The subject site has an Urban Village Commercial land use designation on the Envision San José 2040 General Plan Land Use/Transportation Diagram. This designation supports commercial activity that is more intensive than that of the Neighborhood/Community Commercial land use designation. Appropriate uses in this designation include mid-rise office buildings, health care facilities, and hotels, along with ground floor neighborhood-serving commercial and retail uses. Development within the Urban Village Commercial Designation should conform to the land use and design standards established with an adopted Urban Village Plan. The project would finalize the design of a second approximately 376,250 square foot commercial office building at the subject site, which includes potential ground floor retail tenants. Therefore, the proposed project is consistent with the General Plan land use designation. Additionally, the subject site is located within the Santana Row/Valley Fair Urban Village.
  - a. Major Strategy #3 - Focused Growth: Strategically focus new growth into areas of San José that will enable the achievement of City goals for economic growth, fiscal sustainability and environmental stewardship and support the development of new, attractive urban neighborhoods. The Plan focuses significant growth, particularly to increase employment capacity, in areas surrounding the City's regional Employment Center, achieve fiscal sustainability, and to maximize the use of transit systems within the region.
  - b. Fiscal Sustainability FS-4.1: Preserve and enhance employment land acreage and building floor area capacity for various employment activities because they provide revenue, near-term jobs, contribute to our City's long-term achievement of economic development and job growth goals, and provide opportunities for the development of retail to serve individual neighborhoods, larger community areas, and the Bay Area.
  - c. Land Use LU-2.1: Provide significant job and housing growth capacity within strategically identified "Growth Areas" in order to maximize use of existing or planned infrastructure (including fixed transit facilities), minimize the environmental impacts of new development, provide for more efficient delivery of City services, and foster the development of more vibrant, walkable urban settings

*Analysis: The subject site is located in an identified growth area (Santana Row/Valley Fair Urban Village) that is adjacent to one of the City's largest regional commercial developments (Santana Row) and is considered to be an area for a significant amount of employment growth. The concentration of growth on this site would further promote the centralization of infrastructure in growth areas. With existing dense residential uses in Santana Row and future Urban Village development, the proposed project would facilitate the creation of a more vibrant and walkable urban setting along Winchester Boulevard with additional employment land use. Additionally, the Master Planned Development Permit includes a Transportation Demand Management Plan that implements shuttle programs, car share, car and van pools, and showers and changing rooms for bicycling that would contribute to reducing vehicle trips as required by the development standards. This Planned Development Permit Amendment would not make any changes to the approved TDM plan.*

- 4. Santana Row/Valley Fair Urban Village Plan.** The subject site is designated Urban Village Commercial on the Land Use Map of the Santana Row/Valley Fair Urban Village. The Urban Village Commercial land use designation is applied to properties along Stevens Creek Boulevard, the Century Theater property along Winchester Boulevard, and the properties adjacent to Interstate 280. These areas were identified as being an opportunity for new commercial development that could build off the success and vibrancy of the commercial development in Santana Row, as well as the existing higher intensity office buildings located along Tisch Way. This designation supports commercial activity that is more intensive than that of the Neighborhood/Community Commercial land use designation. a variety of commercial uses, mid-rise office buildings and hotels, along with ground floor neighborhood serving commercial and retail uses.
- a. Goal LU-4: Foster a development pattern that supports the creation of a walkable dynamic environment and reduces motor vehicle travel by encouraging the use of other modes of travel.
  - b. Policy 3-14: Ensure new development along Stevens Creek and Winchester Boulevard includes ground floor commercial and/or active spaces such as lobbies fronting the street and wrapping the corner when located on a corner lot.

*Analysis: The project would allow for the construction of a second approximately 376,250-square foot office building along Winchester Boulevard. The project would provide new job-generating and regional serving commercial development through the construction of office and ground floor retail space. The design of the building is consistent with the previously approved Planned Development Permit (File No. PD18-045) as well as the urban design policies of the approved Santana Row/Valley Fair Urban Village Plan. The project plans have been modified to add secondary building access along Winchester Boulevard for potential retail tenants. The project includes active frontage along both Winchester Boulevard and Olsen Drive, as well as a central plaza between the two office buildings to allow for additional pedestrian access to the site.*

- 5. Zoning Conformance.** The project conforms with the approved General Development Plan of the Planned Development Zoning District (File No. PDC14-068). Commercial office is a permitted use.

### Setbacks

Development Standard	Required	Provided
Frontage along Winchester Boulevard, Olin Avenue, and Olsen Drive	Zero feet	0 feet
Westernmost boundary of the subject site	40 feet	Approximately 45 feet
Southernmost boundary of the subject site	20 feet	Approximately 25 feet
From any designated City landmark structure	50 feet	50 feet or greater

Height. The maximum height allowed is 120 feet, as amended. The Santana Row/Valley Fair Urban Village allows up to 150 feet within the Urban Village Commercial General Plan designation. Pursuant to Section 20.100.1300 of the Zoning Code, exceptions permitting elevator shafts and stairwells are allowed to exceed the height limitation by up to 17 feet. The project has a maximum height of 120 feet.

Parking. The standard ratio for vehicle parking for commercial office space is one per 250 square feet of net floor area. The bicycle parking ratio is one per 4,000 square feet of floor area and motorcycle parking is one per 20 vehicle parking spaces. The total project includes 657,475 square feet of net floor area of commercial office space including the Century 21 Theater. Pursuant to Section 20.90.220 of the Zoning Code, the subject site is applicable to a 20% reduction in the requirement based on the site location within the Santana Row/Valley Fair Urban Village. Therefore, the total project requires 2,104 vehicle parking spaces, 224 bicycle spaces, and 64 motorcycle spaces. In Phase 2, the project would be parked at ratios in excess of current code requirements, permitting future TDM implementation to ramp-up as the Master Plan is built out. The project would result in a 20% parking reduction upon completion of all phases. The Phase 2 portion of the amendment would provide 560 vehicle parking spaces in a subterranean garage, 160 bicycle parking spaces, and 39 motorcycle parking spaces in addition to the 1,521 total parking spaces provided between the above ground garage, the subterranean garage of the Phase 1, the Century 21 Theater, and surface parking at Olsen Drive.

- 6. Commercial Design Guidelines.** The project conforms with the City's Commercial Design Guidelines. The proposed building would be compatible with the design of the previously approved Phase 1 building in the approved Planned Development Zoning District (File No. PDC14-068) in terms of scale and materials. As previously discussed, the project provides minimum setbacks and active street frontages along Winchester Boulevard and Olsen Drive. Parking would be located in an above ground structure at the rear of the site, away from the street frontage, as well as in a subterranean garage below the building. Furthermore, the

project includes adequate provisions for trash, storage, and a service entrance at the rear of the building.

**7. Planned Development Permit Amendment Findings.** Section 20.100.940 of the San José Municipal Code establishes the required findings for issuance of a Planned Development Permit Amendment.

- a. The Planned Development Permit Amendment, as approved, furthers the policies of the General Plan land use of Urban Village Commercial in that the proposed project will enhance the existing commercial uses on-site. The proposed project is consistent with and will further these policies of the General Plan.

*Analysis: As discussed above, the subject site is located in the Santana Row/Valley Fair Urban Village, an identified growth area that is adjacent to one of the City's largest regional commercial developments (Santana Row and Valley Fair) and is considered to be an area for a significant amount of employment growth. The concentration of growth on this site would further promote the centralization of infrastructure in growth areas. With existing dense residential uses in Santana Row and future Urban Village development, the proposed project would facilitate the creation of a more vibrant and walkable urban setting along Winchester Boulevard with additional employment land use.*

- b. The Planned Development Permit Amendment conforms to the planned development zoning of the property. As described above, the proposed project is consistent with the development standards of the Planned Development Zoning District File Number PDC14-068.

*Analysis: As discussed in the Zoning section above, the project is consistent with all applicable development standards of the Planned Development Zoning District (File No. PDC14-068), including setbacks, height, and parking requirements. The Master Planned Development Permit includes a Transportation Demand Management Plan that implements shuttle programs, car share, car and van pools, and showers and changing rooms for bicycling that would contribute to reducing vehicle trips as required by the development standards. This Planned Development Permit Amendment would not make any changes to the approved TDM plan.*

- c. The Planned Development Permit Amendment, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency.

*Analysis: The project installed an on-site sign at the project frontage and was noticed for a 1,000-foot radius per the City Council Policy 6-30: Public Outreach Policy.*

- d. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious.

*Analysis: The orientation of the proposed project is situated to have frontage along Winchester Boulevard and Olsen Drive with ground floor commercial activation as required by the Urban Village plan. Most of the commercial activity would be located closer to Winchester Boulevard and Santana Row, which is appropriate for the area. Vehicle access is provided along Olsen Drive.*



- e. Amendments may be granted at the discretion of the director, planning commission on appeal, or city council as appropriate upon a finding that the amendment does not negate any findings required by Section 20.100.940.

*Analysis: As previously discussed, the project would conform with the General Plan Land Use Designation as well as the requirements of the Planned Development Zoning District (File No. PDC14-068). The project would amend the previously approved Planned Development Permit (File No. PD18-045) to finalize the design of the Phase 2 building, modify the EVA, and modify the landscape area between the Phase 1 and Phase 2 building. The modifications would be consistent with the Urban Village Commercial land use designation, the Santana Row/Valley Fair Urban Village Plan, and the approved Planned Development Permit (File No. PD18-045).*

- 8. Environmental Review.** The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

*Analysis: The project is a Determination of Consistency with the Santana West Development Project and the I-280 Winchester/Moorpark Transportation Development Policy Final EIR (approved on September 20, 2016 at City Council, Resolution No. 77931, SCH no. 2015112006) and subsequent Addendum. The proposed project is a modification to the exterior design for Phase 2 of construction, including Building 2 and the adjacent outdoor central plaza. It is within the scope of the full build out of the Santana West project and would not result in any new impacts or substantial increase in the magnitude of any significant environmental impact previously identified in the certified EIR and subsequent Addendum.*

In accordance with the findings set forth above, a Planned Development Permit Amendment for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and
  - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four (4) years from and after the date of issuance hereof by said Director, if within such four (4) year time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date

this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.

3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
5. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit Amendment File No. PDA18-045-01 plans entitled, "PD Permit Amendment to Master Development PD Permit and Phase 2 Development Permit" dated stamp received October 13, 2020, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
6. **Conformance with Approved Zoning.** All applicable conditions of approval and required environmental mitigation measures from the previously approved Planned Development Zoning, File No. PDC14-068, remain in effect.
7. **Conformance with Approved Planned Development Permit.** All applicable conditions of approval and required environmental mitigation measures from the previously approved Planned Development Permit, File No. PD18-045, remain in effect.
8. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
9. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.

10. **Use Authorization.** Any future occupants proposing late night use are subject to a Planned Development Permit Amendment and any applicable City Council Policies as amended.
11. **Conformance to MMRP.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development under File No. PDC14-068 by the City Council in Resolution No. 77931, Exhibit A.
12. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
13. **Revocation.** This Permit is subject to revocation for violation of any of its provisions or conditions.
14. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
15. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
16. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
17. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
18. **Directory.** A lighted directory showing addresses and locations of all buildings on site shall be provided at the main entrance of the site.
19. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
20. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
21. **No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment
22. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
23. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
24. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient



landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.

25. **Reclaimed Water.** The project shall conform to Chapter 15.10 and 15.11 of the San José Municipal Code. The Code addresses the use of reclaimed water including the requirement that an irrigation system be designed to allow for the current and future use of reclaimed water for all landscaped cumulative areas in excess of ten thousand (10,000) square feet.
26. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.
27. **Mechanical Equipment.** No roof-mounted or other exterior mechanical equipment shall be located within 120 feet of a residential property line unless a Sound Engineer has certified that noise levels from such equipment will not exceed 55 dBA at the residential property line. All roof mounted mechanical equipment shall be screened from view.
28. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
29. **Window Glazing.** Unless otherwise indicated on the approved plan, all windows shall consist of a transparent glass.
30. **No Extended Construction Hours.** This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
31. **Construction Disturbance Coordinator.** Rules and regulation pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
32. **Green Building Requirements.** This development is subject to the City's Green Building Ordinance for Private Sector New Construction as set for in Municipal Code Section 17.84. Prior to the issuance of any shell permits, or complete building permits, for the construction of buildings approved through the scope of this Permit, the Permittee shall pay a Green Building Refundable Deposit. In order to receive a refund of the deposit, the project must achieve the minimum requirements as set forth in Municipal Code Section 17.84. The request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in Municipal Code Section 17.84 shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.
33. **Storm Drain Protection.** No hazardous materials, paint, rinse water, or construction sediments or debris shall be allowed to enter the public right-of-way or any storm drain inlet. The storm drain system flows to the Bay.

34. **Affordable Housing Requirements.** The project may be subject to the City's Inclusionary Housing Ordinance (IHO) or Affordable Housing Impact Fee (AHIF). If the development is subject to the referenced IHO or AHIF, the permittee must execute and record their Affordable Housing Agreement with the City prior to the issuance of any building permits, or any final approval of any final map.
- The IHO and AHIF Resolution each exempt certain developments from affordable housing obligations, if the development meets certain criteria. However, whether an exemption is claimed or not, the permittee must submit an Affordable Housing Compliance Plan Application, and the application processing fee to the Housing Department as part of the application for First Approval.
  - The Housing Department has reviewed and approved the Affordable Housing Compliance Plan for this project. Permittee shall strictly comply with the approved Affordable Housing Compliance Plan for this project and any other applicable requirements of the IHO or AHIF.
  - If the project is subject to the AHIF, no building permit may issue until the AHIF is paid. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the AHIF Resolution are met.
  - If the project is subject to the IHO, no Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO are met.
35. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the California Fire Code as adopted or updated by the City.
36. **FAA Clearance.**
- Prior to the issuance of a building permit for Building 1 ("One Santana West") and Building 2 ("Two Santana West"), the permittee shall obtain from the Federal Aviation Administration (FAA) a "Determination of No Hazard" for each building's highest point. The permittee shall initiate the required FAA review by filing a "Notice of Proposed Construction or Alteration" (FAA Form 7460-1) for each building high point, with the technical data on the FAA forms prepared by a licensed civil engineer or surveyor using NAD83 latitude/longitude coordinates out to hundredths of seconds and NAVD88 elevations rounded off to next highest foot.
  - The permittee shall comply with any condition set forth in an FAA Determination of No Hazard, including expiration date. If the FAA determination requires a subsequent filing of a "Notice of Actual Construction or Alteration" (FAA Form 7460-2) upon completion of construction, such filing shall occur prior to City issuance of any certificate of occupancy.
37. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This permit file number, **PDA18-045-01** shall be printed on all construction plans submitted to the Building Division.
- b. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- c. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
- d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.

**38. Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of all Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/index.aspx?nid=2246>.

- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
- b. **Transportation:**
  - i. A Traffic Impact Analysis was performed as part of the Planned Development Rezoning for this project site as PDC14-068, which allowed up to 969,051 square feet of office space and 29,000 square feet of commercial space. See separate Traffic Memo dated 09/30/16. The project is required to perform the following Transportation Improvements:
    - 1) Conform to the Protected Intersection Policy for multiple impacts at protected intersections. The fee as of July 1, 2018 is equal to \$4,692 per net peak hour trips for multiple intersection impacts. The fee will increase on July 1, 2019 to \$4,856. The Policy limits the fee to the first 400 peak hour trips and the project will be generating 400 peak hour trips with Phase 1. Therefore, the project is required to provide a contribution in the approximate amount of \$1,876,800 (2018 rate) or \$1,942,400 (2019 rate) for off-setting improvements that were identified, but not constructed by the Santana Row Lot 9 & 17 project. This amount shall be paid in full prior to the issuance of first grading permit.
    - 2) Contribute one million dollars (\$1.0 Million) to the VTA Voluntary Contribution Program for regional transportation improvements for impacts to 21 freeway segments. The contribution shall be paid in full prior to issuance of first grading permit.

- 3) Contribute a fair share contribution of up to \$345,389 towards cumulative impacts along San Tomas Expressway to the County of Santa Clara Expressway San Tomas widening project for impacts to San Tomas Expressway/Stevens Creek Boulevard, San Tomas Expressway/Moorpark Avenue, and San Tomas Expressway/Williams Road. The fee shall be paid in full prior to Public Works clearance for Building Permit.
  - 4) Conform to the I-280/Winchester Boulevard Transportation Development Policy, which requires payment of a traffic impact fee per PM peak hour trip generated by the project through the Policy Interchange. The fee shall be prorated per PM peak hour trip and paid prior to issuance of Public Works clearance for each Building Permit.
  - 5) Implement a Transportation Demand Management (TDM) program as approved by the Planning Director.
  - 6) Restrict truck access to utilize the intersection of Olsen Avenue/Winchester Boulevard. In addition, restrict deliveries to times outside the standard peak hours for the proposed office.
  - 7) Install red curb at the project driveways along Olin Avenue.
- ii. The project scope was reduced to 934,750 square feet of gross office space with this PD permit, and therefore a Local Transportation Analysis (LTA) was performed. See separate Traffic Memo dated 05/21/19. Transportation Improvements have been revised based on the change in scope and the project is required to implement the following:
- 1) Construct a second 300-foot northbound left-turn lane and a 150-foot extension of the existing pocket at the intersection of Winchester Boulevard/Olsen Drive. This would require the removal of the center median and trees along Winchester Boulevard.
  - 2) Construct a second receiving westbound lane with a center median along Olsen Drive.
  - 3) Convert the eastbound approach at Olin Avenue/Winchester Boulevard to one (1) left-turn lane, one (1) shared through and left-turn lane and one (1) right-turn lane.
  - 4) Construct traffic calming measures to minimize project traffic impacts along Maplewood Avenue, Hanson Avenue, and Spar Avenue. Design of traffic calming measures will be determined during implementation phase and may include but not be limited to the below:
    - a) Prior to issuance of any Certificate of Occupancy, construct the following:
      - i) Construct permanent diverter at the intersection of Hanson Avenue at Olin Avenue to restrict parking garage ingress and egress.
      - ii) Construct temporary traffic circle at the intersection of Hansen Avenue and Spar Avenue.

- iii) Construct temporary median island at Spar Avenue and Olin Avenue to restrict left-turns from Olin Avenue to Spar Avenue. Additionally, construct a temporary bulb-out to restrict right-turns from Spar Avenue to Olin Avenue.
  - b) Within twelve (12) months of Certificate of Occupancy, submit a traffic study to the City including count data and speed study to evaluate effectiveness of temporary traffic calming measures.
  - c) Within 18 months of Certificate of Occupancy, construct permanent traffic calming measures as approved by the City.
- c. **Urban Village Plan:** This project is located in Valley Fair/Santana Row a designated Urban Village per the Envision San Jose 2040 General Plan. Urban Villages are designed to provide a vibrant and inviting mixed-use setting to attract pedestrians, bicyclists, and transit users of all ages and to promote job growth.
- d. **Grand Boulevard:** This project fronts Winchester Boulevard which is designated as one of the seven Grand Boulevards per the Envision San Jose 2040 General Plan. Grand Boulevards are identified to serve as major transportation corridors for primary routes for VTA light-rail, bus rapid transit, standard or community buses, and other public transit vehicles.
- e. **Grading/Geology:**
  - i. A grading permit is required prior to the issuance of a Public Works Clearance.
  - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
  - iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
  - iv. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
  - v. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit. This report should include, but is not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations.



f. **Shoring:**

- i. Shoring plans will be required for review and approval as part of the Grading Permit for this project.
- ii. If tie-backs are proposed in the Public right-of-way as a part of the shoring operation, a separate Revocable Encroachment Permit must be obtained by the Developer or Contractor and must provide security, in the form of a CD or Letter of Credit, in the amount of \$100,000. All other shoring will not be allowed to encroach more than 12" within the public right-of-way (i.e. soldier beams).

g. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.

- i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
- ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- iii. Submit stand-alone Stormwater Evaluation Form and stormwater control plans including TCM summary tables, Comparison of Impervious and Pervious Surfaces at Project Site table, sizing calculations, etc. for Phase 2 and Phase 3 with future PD Amendments, if applicable.

h. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).

i. **Flood: Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.

j. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.

k. **Undergrounding:**

- i. The In-Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Olin Avenue prior to issuance of a Public Works Clearance. (100%) of the base fee in place at the time of payment will be due. Currently, the 2020 base fee is \$515 per linear foot of frontage and is subject to change every January 31<sup>st</sup> based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued.
- ii. Developer has the option to complete the underground conversion of the utility facilities fronting the project adjacent to Olin Avenue. Developer shall submit copies

of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.

- l. **Street Improvements.** The following improvements are to be completed with Phase 1 of the project.
  - i. Construct 15' wide attached sidewalk with tree wells along Winchester Boulevard project frontage. Provide a 5' wide street dedication.
  - ii. Construct 10' wide attached sidewalk with tree wells along Olsen Drive project frontage. Street dedication will be required.
  - iii. Construct 10' wide attached sidewalk with tree wells along Olin Avenue project frontage. Street dedication will be required.
  - iv. Construct a 36' wide driveway along Olin Avenue to access the garage.
  - v. Construct 32' wide driveway along Olin Avenue to the private street.
  - vi. Construct a 26' wide driveway to the private street and a 16' wide driveway to the theater along Olsen Drive.
  - vii. Close unused driveway cut(s).
  - viii. Install handicap ramp at the corner of Olsen Drive and Winchester Boulevard.
  - ix. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
  - x. Remove and replace broken, uplifted curb and gutter as well as broken, uplifted or non-ADA compliant sidewalk along project frontage.
  - xi. Repair, overlay, or reconstruction of asphalt pavement will be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
  - xii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- m. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
- n. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree and alternatives.
  - i. The designated species for Winchester Blvd are *Tilia tomentosa* planted 40' on center.
  - ii. All street trees shall be located at back of curb along Olin Ave. The recommended street tree remains to be *Ginkgo biloba* 'Autumn Gold' planted 35' on center. *G.b.* 'Princeton Sentry' is not recommended due to its smaller stature and minimum canopy.

- iii. All street trees shall be located at back of curb along Olsen Dr. The recommended street trees are *Acer campestre* 'Evelyn', *Arbutus marina*, *Carpinus betulus*, or *Jacaranda mimosifolia*.
- iv. Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are proposed to be removed.
- v. If street tree locations conflict with existing utilities, developer shall be solely responsible for relocating or adjusting utilities as necessary to resolve conflict.

**o. Private Streets:**

- i. Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
- ii. The plan set includes details of private infrastructure improvements. The details are shown for information only. Final design shall require the approval of the Director of Public Works.

**39. Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Planned Development Permit Amendment was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

**APPROVED** and issued on this **9<sup>th</sup> day of December, 2020.**

Rosalyn Hughey, Director  
Planning, Building, and Code Enforcement

Deputy